

1 ROBERT P. KRISTOFF (SB# 090874) bobkristoff@paulhastings.com
2 ZACHARY HUTTON (SB# 234737) zacharyhutton@paulhastings.com
3 MICHAEL M. PFYL (SB# 240925) michaelpfyl@paulhastings.com
4 PAUL, HASTINGS, JANOFKY & WALKER LLP
5 55 Second Street
6 Twenty-Fourth Floor
7 San Francisco, California 94105-3441
8 Telephone: (415) 856-7000
9 Facsimile: (415) 856-7100

10 Attorneys for Defendant
11 UPS SUPPLY CHAIN SOLUTIONS, INC.

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 SAN FRANCISCO DIVISION

15 PAULA LABRIE, ALFREDO MACIAS,
16 PETER MILLMAN, TOM
17 CHORTABTIM, RAF SISON,

18 Plaintiffs,

19 vs.

20 UPS SUPPLY CHAIN SOLUTIONS,
21 INC.,

22 Defendant.

CASE NO. C08-03182 PJH

**[PROPOSED] ORDER GRANTING
DEFENDANT UPS SUPPLY CHAIN
SOLUTIONS, INC.'S MOTION TO
DISMISS FOR FAILURE TO STATE A
CLAIM UPON WHICH RELIEF CAN BE
GRANTED UNDER FEDERAL RULE OF
CIVIL PROCEDURE 12(B)(6).**

DATE: October 1, 2008
TIME: 9:00 a.m.
DEPT: Crtrm. 3, 17th Floor
JUDGE: Hon. Phyllis J. Hamilton

1 On October 1, 2008 at 9:00 a.m., this matter came on for hearing before this Court,
2 the Honorable Phyllis J. Hamilton presiding, on the Motion to Dismiss filed by Defendant UPS
3 Supply Chain Solutions, Inc. ("SCS").

4 This Court, having read and considered the moving and responding papers and the oral
5 arguments presented, and the matter having been duly heard, IT IS ORDERED that the motion be
6 and is hereby GRANTED as follows:

7 Defendant's Motion to Dismiss with prejudice the sixth cause of action (fraud) in
8 Plaintiffs' First Amended Complaint on the grounds that plaintiffs fail to state a claim upon
9 which relief can be granted is **GRANTED**, and plaintiffs' sixth cause of action is **DISMISSED**
10 without leave to amend because plaintiffs have not alleged, and Defendant has demonstrated
11 that they cannot allege in good faith, that Defendant misrepresented an issue of fact.

12
13
14 DATED: _____, 2008

Phyllis J. Hamilton
United States District Judge